

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JUNE 30, 2003

AMENDED IN SENATE MAY 1, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 1059

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Section 6105 of the Commercial Code, and to amend Sections 72, ~~194, 220.5, 531.8, and 533~~ 220.5, 531.9, 533, and 1610.8 of, and to add Sections 256.6, 256.7, and 276.5 to, the Revenue and Taxation Code, relating to property taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1059, as amended, Committee on Revenue and Taxation. Property taxation.

(1) Existing law requires a buyer that is a party to a bulk sale, as defined, to provide a notice of the sale to the county tax collector in the county or counties in which the property that is involved in the sale is located. Existing law requires a buyer to include a property statement, as specified, with this notice if it is delivered between March 1 and the last Friday in May.

This bill would change the dates for which a property statement is required to be sent with a bulk sale notice to notices delivered between January 1 and May-~~31~~ 7.

(2) Existing law requires a city or a county to provide to county assessors, among other documents, copies of any building permits or certificates of occupancy issued by those entities.

This bill would authorize the board of supervisors of a county to enact, by a majority vote of its entire membership, an ordinance that requires ~~a party that files, or causes to be filed, an approved set of tentative maps with the county or a city in that county to provide a copy of these maps to the county assessor as soon as possible after the maps are filed~~ *the local agency that approves a tentative map, as provided, to submit a copy of the map, and any conditions of approval for the map, to the county assessor as soon as possible after the map is filed.*

(3) ~~Existing law authorizes a taxpayer in an eligible county, as defined, to defer the payment of property taxes on real property and manufactured homes, as provided, that has sustained “substantial disaster damage,” which term is generally defined as real property and any manufactured home that has received or is eligible for the homeowners’ exemption, as provided, and that has sustained damage amounting to at least 10% of its fair market value or \$5,000, whichever is less.~~

~~This bill would change that \$5,000 limit to \$10,000.~~

(4) ~~Existing law exempts from property taxation aircraft of historical significance, as defined, only if the assessee is an individual owner of the aircraft who does not hold the aircraft for the purposes of selling it, the assessee does not use the aircraft for commercial purposes or general transportation, and the aircraft is available for display to the public, as provided. Existing law requires an assessee that claims this exemption to file an affidavit regarding the aircraft, which affidavit is provided by the assessor.~~

This bill would require an assessee that applies for this exemption to attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed to the public. This bill would also specify that if a person claiming this exemption fails to file the required affidavit before February 15 of the fiscal year in which the exemption is sought, but files that affidavit on or before August 1, the exemption amount shall be reduced by 20%.

~~(5)~~

(4) Existing law, pursuant to a constitutional mandate, exempts from property taxation property held or used exclusively for nonprofit cemetery purposes, as specified.



This bill would require county assessors to annually notify, in the manner prescribed by the State Board of Equalization, those assessees that claimed this exemption in the prior fiscal year, as specified. This bill would also require that this notice contain a separate form that queries assessees regarding the current status of the property, as provided. This bill would also provide that if an assessee does not return the query form, that assessee may be subject to an onsite inspection of the property by the assessor. By requiring county assessors to provide this additional notice, this bill would impose a state-mandated local program.

~~(6)~~

This bill would provide, subject to certain conditions, that an affidavit claiming the cemetery exemption is not required to be filed in order to receive the exemption for any cemetery that exists, or is discovered to exist, in the unincorporated area of a county for which the assessor is unable to identify the legal cemetery authority, as defined, for that cemetery. The bill would also require that any tax, penalty, or interest on these cemeteries be canceled.

(5) Existing property tax law provides for assessments to be made on property outside the regular assessment period if that property escaped assessment during the regular assessment period, as provided. Existing law requires county assessors to notify those subject to these assessments and requires that this notice provide the name and address of a person at the assessor's office that has knowledge of the escape assessment so that those subject to the assessment can contact that person with questions regarding the assessment. Existing law also requires county auditors to enter escape assessments on the county tax roll, as provided.

This bill would require that notices of escape assessments include only the telephone number of the assessor's office. This bill would also authorize county assessors to make entries of escape assessments on either a hard copy or an electronic version of the county tax roll.

(6) Existing law requires the county board of equalization to equalize the assessment of property by specified methods, including the canceling of assessments of property not subject to taxation.

This bill would instead require the canceling of improper assessments.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that



reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6105 of the Commercial Code is
2 amended to read:
3 6105. In order to comply with subdivision (b) of Section 6104
4 each of the following shall be satisfied:
5 (a) The notice shall comply with each of the following:
6 (1) State that a bulk sale is about to be made.
7 (2) State the name and business address of the seller together
8 with any other business name and address listed by the seller
9 (subdivision (a) of Section 6104) and the name and business
10 address of the buyer.
11 (3) State the location and general description of the assets.
12 (4) State the place and the anticipated date of the bulk sale.
13 (5) State whether or not the bulk sale is subject to Section
14 6106.2 and, if so subject, the matters required by subdivision (f)
15 of Section 6106.2.
16 (b) At least 12 business days before the date of the bulk sale, the
17 notice shall be:
18 (1) Recorded in the office of the county recorder in the county
19 or counties in this state in which the tangible assets are located and,
20 if different, in the county in which the seller is located (paragraph
21 (2) of subdivision (a) of Section 6103).
22 (2) Published at least once in a newspaper of general circulation
23 published in the judicial district in this state in which the tangible
24 assets are located and in the judicial district, if different, in which
25 the seller is located (paragraph (2) of subdivision (a) of Section
26 6103), if in either case there is one, and if there is none, then in a



1 newspaper of general circulation in the county in which the
2 judicial district is located.

3 (3) Delivered or sent by registered or certified mail to the
4 county tax collector in the county or counties in this state in which
5 the tangible assets are located. If delivered during the period from
6 January 1 to May 7, inclusive, the notice shall be accompanied by
7 a completed business property statement with respect to property
8 involved in the bulk sale pursuant to Section 441 of the Revenue
9 and Taxation Code.

10 If the tangible assets are located in more than one judicial
11 district in this state, the publication required in paragraph (2) shall
12 be in a newspaper of general circulation published in the judicial
13 district in this state in which a greater portion of the tangible assets
14 are located, on the date the notice is published, than in any other
15 judicial district in this state and, if different, in the judicial district
16 in which the seller is located (paragraph (2) of subdivision (a) of
17 Section 6103). As used in this subdivision, “business day” means
18 any day other than a Saturday, Sunday, or day observed as a
19 holiday by the state government.

20 SEC. 2. Section 72 of the Revenue and Taxation Code is
21 amended to read:

22 72. (a) A copy of any building permit issued by any city,
23 county, or city and county shall be transmitted by each issuing
24 entity to the county assessor as soon as possible after the date of
25 issuance.

26 (b) A copy of any certificate of occupancy or other document
27 that shows the date of completion of new construction issued or
28 finalized by any city, county, or city and county, shall be
29 transmitted by each entity to the county assessor within 30 days
30 after the date of issuance or finalization.

31 (c) At the time an assessee files, or causes to be filed, an
32 approved set of building plans with the city, county, or city and
33 county, a scale copy of the floor plans and exterior dimensions of
34 the building designated for the county assessor shall be filed by the
35 assessee or his or her designee. The scale copy shall be in sufficient
36 detail to allow the assessor to determine the square footage of the
37 building and, in the case of a residential building, the intended use
38 of each room. An assessee, or his or her designee, where multiple
39 units are to be constructed from the same set of building plans, may
40 file only one scale copy of floor plans and exterior dimensions, so

1 long as each application for a building permit with respect to those
2 building plans specifically identifies the scale copy filed pursuant
3 to this section. However, where the square footage of any one of
4 the multiple units is altered, an assessee, or his or her designee,
5 shall file a scale copy of the floor plan and exterior dimensions that
6 specifically identifies the alteration from the previously filed scale
7 copy. The receiving authority shall transmit that copy to the county
8 assessor as soon as possible after the final plans are approved.

9 (d) The board of supervisors of a county may enact, by a
10 majority vote of its entire membership, an ordinance that requires
11 ~~a party that files, or causes to be filed, an approved set of tentative~~
12 ~~maps with the county or a city in that county to provide a copy of~~
13 ~~these maps to the county assessor as soon as possible after the maps~~
14 ~~are so filed. the local agency that approves the tentative map or~~
15 ~~maps, and any conditions of approval for the tentative map or~~
16 ~~maps that are filed with a county or a city in that county, to submit~~
17 ~~a copy of the map or maps, and any conditions of approval for the~~
18 ~~tentative map or maps, to the county assessor as soon as possible~~
19 ~~after the map or maps are filed. The ordinance may require that the~~
20 ~~map or maps be provided to the county assessor in an electronic~~
21 ~~format, if available in that form.~~

22 ~~SEC. 3. Section 194 of the Revenue and Taxation Code is~~
23 ~~amended to read:~~

24 ~~194. As used in this chapter:~~

25 ~~(a) “Eligible county” means a county that meets both of the~~
26 ~~following requirements:~~

27 ~~(1) Has been proclaimed by the Governor to be in a state of~~
28 ~~emergency.~~

29 ~~(2) Has adopted an ordinance providing property tax relief for~~
30 ~~disaster victims as provided in Section 170.~~

31 ~~(b) “Eligible property” means real property and any~~
32 ~~manufactured home, including any new construction that was~~
33 ~~completed or any change in ownership that occurred prior to the~~
34 ~~date of the disaster that meets both of the following requirements:~~

35 ~~(1) Is located in an eligible county.~~

36 ~~(2) Has sustained substantial disaster damage and the disaster~~
37 ~~resulted in the issuance of a state of emergency proclamation by~~
38 ~~the Governor.~~

39 ~~“Eligible property” does not include any real property or any~~
40 ~~manufactured home, whether or not it otherwise qualifies as~~

1 eligible property, if that real property or manufactured home was
2 purchased or otherwise acquired by a claimant for relief under this
3 chapter after the last date on which the disaster occurred.

4 (c) ~~“Fair market value” means “full cash value” or “fair~~
5 ~~market value” as defined in Section 110.~~

6 (d) ~~“Next property tax installment payment date” means~~
7 ~~December 10 or April 10, whichever date occurs first after the last~~
8 ~~date on which the eligible property was damaged.~~

9 (e) ~~“Property tax deferral claim” means a claim filed by the~~
10 ~~owner of eligible property in conjunction with, or in addition to,~~
11 ~~the filing of an application for reassessment of that property~~
12 ~~pursuant to Section 170, that enables the owner to defer payment~~
13 ~~of the next installment of taxes on property on the regular secured~~
14 ~~roll for the current fiscal year, as provided in Section 194.1 or to~~
15 ~~defer payment of taxes on property on the supplemental roll for the~~
16 ~~current fiscal year, as provided in Section 194.9.~~

17 (f) ~~“Substantial disaster damage,” as to real property located~~
18 ~~in a county declared to be a disaster by the Governor, means, with~~
19 ~~respect to real property and any manufactured home that has~~
20 ~~received the homeowners’ exemption or is eligible for the~~
21 ~~exemption as of the most recent lien date, damage amounting to~~
22 ~~at least 10 percent of its fair market value or ten thousand dollars~~
23 ~~(\$10,000), whichever is less; and, with respect to other property,~~
24 ~~damage to the parcel of at least 20 percent of its fair market value~~
25 ~~immediately preceding the disaster causing the damage.~~

26 ~~SEC. 4.—~~

27 *SEC. 3.* Section 220.5 of the Revenue and Taxation Code is
28 amended to read:

29 220.5. (a) Aircraft of historical significance shall be exempt
30 from taxation.

31 (b) The exemption provided in subdivision (a) applies only if
32 all of the following conditions are satisfied:

33 (1) The assessee is an individual owner who does not hold the
34 aircraft primarily for purposes of sale.

35 (2) The assessee does not use the aircraft for commercial
36 purposes or general transportation.

37 (3) The aircraft is available for display to the public at least 12
38 days during the 12-month period immediately preceding the lien
39 date for the year for which the exemption is claimed. If the aircraft
40 was first made available for public display less than 12 days prior

1 to the lien date, the exemption may be granted if the claimant
2 certifies in writing that the aircraft will be made available for
3 public display at least 12 days during the 12-month period
4 commencing with the first day the property was made available for
5 public display. When applying for an exemption pursuant to this
6 section, the claimant shall attach to that application a certificate of
7 attendance from the event coordinator of the event at which the
8 aircraft was displayed as required by this paragraph.

9 (c) When claiming an exemption pursuant to this section, the
10 claimant shall provide all information required and answer all
11 questions contained in an affidavit furnished by the assessor. The
12 claimant shall sign and swear to the accuracy of the contents of the
13 affidavit before either a notary public or the assessor or his or her
14 designee, at the claimant's option. The assessor may require
15 additional proof of the information or answers provided in the
16 affidavit before allowing the exemption.

17 (d) For purposes of this section, "aircraft of historical
18 significance" means any aircraft ~~which~~ *that* is an original,
19 restored, or replica of a heavier than air powered aircraft ~~which~~
20 *that* is 35 years or older or any aircraft of a type or model of which
21 there are fewer than five in number known to exist worldwide.

22 (e) A fee of thirty-five dollars (\$35) shall be charged and
23 collected by the assessor upon the initial application for an
24 exemption pursuant to this section.

25 ~~SEC. 5.—~~

26 *SEC. 4.* Section 256.6 is added to the Revenue and Taxation
27 Code, to read:

28 256.6. (a) (1) Prior to the lien date, the assessor shall
29 annually mail a notice to every person or entity that received, in
30 the immediately preceding fiscal year, the exemption provided by
31 Section 204.

32 (2) The board shall prescribe the form for the annual notice
33 described in paragraph (1), which form shall specify the
34 following:

35 (A) The circumstances under which the property may be
36 disqualified from exemption.

37 (B) That the person or entity has a duty to inform the assessor
38 if the property no longer qualifies for the exemption.

39 (b) At the same time the notice is described in subdivision (a)
40 is mailed, the assessor shall include with that notice a card that may



1 be returned to the assessor by the person or entity receiving the
2 notice, ~~and~~ which card shall be in the following form:

3
4 To all persons and entities that have received a nonprofit
5 cemetery exemption for the ____ fiscal year.

6 QUESTION: Will the property to which the exemption
7 applied in the ____ fiscal year continue to be used or held
8 exclusively for the burial or other permanent deposit of the
9 human dead or for the care, maintenance, or upkeep of that
10 property or those dead in the ____ fiscal year?

11 ____ yes ____ no

12 Signature: _____ Title: _____

13
14 Failure to return this card does not constitute a waiver of this
15 exemption as specified by the California Constitution, but may
16 result in an onsite inspection by the assessor to verify any exempt
17 activity.

18 SEC. 5. Section 256.7 is added to the Revenue and Taxation
19 Code, to read:

20 256.7. (a) Notwithstanding Sections 254, 256.5, and 256.6,
21 an affidavit claiming the cemetery exemption, as provided for in
22 subdivision (g) of Section 3 of Article XIII of the California
23 Constitution and Section 204, is not required to be filed in order
24 to receive the exemption for any cemetery that exists, or is
25 discovered to exist, in the unincorporated area of a county for
26 which the assessor is unable to identify the legal cemetery
27 authority, as defined in Section 7018 of the Health and Safety
28 Code, that may by law claim the exemption for that cemetery, if
29 both of the following apply:

30 (1) The cemetery was used by residents of the state prior to the
31 year 1900.

32 (2) The cemetery is no longer used for current or future
33 interments.

34 (b) Any tax, penalty, or interest imposed upon a cemetery
35 subject to this section shall be canceled pursuant to Article 1
36 (commencing with Section 4985) of Chapter 4 of Part 9, as if it had
37 been levied or charged erroneously.

38 SEC. 6. Section 276.5 is added to the Revenue and Taxation
39 Code, to read:

1 276.5. If a person claiming the exemption of an aircraft of
2 historical significance under Section 220.5 fails to file the affidavit
3 required by that section by 5 p.m. on February 15 of the fiscal year
4 for which the exemption is claimed, but files that affidavit on or
5 before the following August 1, the assessment shall be reduced by
6 an amount equal to 80 percent of the reduction that would have
7 been allowed had the affidavit been timely filed.

8 SEC. 7. Section 531.8 of the Revenue and Taxation Code is
9 amended to read:

10 531.8. No escape assessment shall be enrolled under this
11 article before 10 days after the assessor has mailed or otherwise
12 delivered to the affected taxpayer a “Notice of Proposed Escape
13 Assessment” with respect to one or more specified tax years. The
14 notice shall prominently display on its face the following heading:

15
16 “NOTICE OF PROPOSED ESCAPE ASSESSMENT”

17
18 The notice shall contain all of the following:

19 (a) The amount of the proposed escape assessments for each tax
20 year at issue.

21 (b) The telephone number of the assessor’s office to allow a
22 taxpayer to contact that office with respect to the proposed escape
23 assessment or assessments.

24 SEC. 8. Section 533 of the Revenue and Taxation Code is
25 amended to read:

26 533. (a) (1) Assessments made pursuant to Article 3
27 (commencing with Section 501) of this chapter or pursuant to this
28 article shall be entered on the roll for the current assessment year,
29 as defined in Section 118, and, if this is not the roll for the
30 assessment year in which the property escaped assessment, the
31 entry shall be followed with “Escaped assessment for year ____
32 pursuant to Sections ____ of the Revenue and Taxation Code.”

33 (2) The assessor may make the entries described in paragraph
34 (1) on either the hard copy of the roll or the electronic version of
35 the roll, as determined by the assessor.

36 (b) (1) If the assessments are made as a result of an audit that
37 discloses that property assessed to the party audited has been
38 incorrectly assessed either for a past tax year for which taxes have
39 been paid and a claim for refund is not barred by Section 5097 or
40 for any tax year for which the taxes are unpaid, the tax refunds

1 resulting from the incorrect assessments shall be an offset against
2 proposed tax liabilities, including accumulated penalties and
3 interest, resulting from escaped assessments for any tax year
4 covered by the audit.

5 (2) Beginning with the 1981–82 fiscal year, assessment for the
6 current and prior year shall be entered using a 100 percent
7 assessment ratio and the tax rate for years prior to the 1981–82
8 fiscal year will be divided by four.

9 (3) If these tax refunds exceed any proposed tax liabilities,
10 including accumulated penalties and interest, the party audited
11 shall be notified by the tax collector of the amount of the excess
12 and of the fact that a claim for cancellation or refund may be filed
13 with the county as provided by Section 5096 or 5096.7. If the
14 assessment caused an excess payment of taxes and therefore
15 resulted in an overpayment by the state for property tax relief as
16 provided by Section 219, then subsequent subventions for
17 property tax relief shall be reduced by the amount of the
18 overpayment.

19 SEC. 9. *Section 1610.8 of the Revenue and Taxation Code, as*
20 *amended by Chapter 199 of the Statutes of 2003, is amended to*
21 *read:*

22 1610.8. After giving notice as prescribed by its rules, the
23 county board shall equalize the assessment of property on the local
24 roll by determining the full value of an individual property, by
25 assessing any taxable property that has escaped assessment,
26 correcting the amount, number, quantity, or description of
27 property on the local roll, ~~canceled assessments of any property~~
28 ~~not subject to taxation, improper assessments,~~ and by reducing or
29 increasing an individual assessment, as provided in this section.
30 The full value of an individual property shall be determined
31 without limitation by reason of the applicant's opinion of value
32 stated in the application for reduction in assessment pursuant to
33 subdivision (a) of Section 1603.

34 The applicant for a reduction in an assessment on the local roll
35 shall establish the full value of the property by independent
36 evidence. The records of the assessor may be used as part of such
37 evidence.

38 The county board shall make a determination of the full value
39 of each parcel for which an application for equalization is made.

1 *SEC. 10.* Notwithstanding Section 17610 of the Government
2 Code, if the Commission on State Mandates determines that this
3 act contains costs mandated by the state, reimbursement to local
4 agencies and school districts for those costs shall be made pursuant
5 to Part 7 (commencing with Section 17500) of Division 4 of Title
6 2 of the Government Code. If the statewide cost of the claim for
7 reimbursement does not exceed one million dollars (\$1,000,000),
8 reimbursement shall be made from the State Mandates Claims
9 Fund.

